IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

WP(C).No. 9304 of 2007(G)

PETITIONER:

S.D.PRAMOD, S/O.LATE C.DAMODHARAN
MENOKI, AGED 42, RESIDING AT PRASANTHI,
POST KAVIL, NADUVANNUR, KOZHIKODE DISTRICT.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, GENERAL EDUCATION
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE ASSISTANT EDUCATIONAL OFFICER,
QUILANDY, KOZHIKODE DISTRICT.

3. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM.

4. P.SUMATHIAMMA, SUMALAYAM,
P.O.MUCHUKUNNU, QUILANDY, KOZHIKODE DISTRICT.

BY GOVT. PLEADER SRI. A.J. VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No. 9304 OF 2007

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Dated this the 20th day of March, 2007

JUDGMENT

Petitioner, aggrieved by the decision to effect change of management involving change of ownership, has preferred Ext.P2. Prayers in the writ petition are to take a decision on Ext.P2 appeal and to direct the second respondent not to grant approval for the appointment of the LPSA till the disposal of Ext.P2 appeal.

2. Heard Government Pleader also.

3. Apparently on a perusal of Ext.P3 approval has been granted by proceedings dated 11.7.2005. The appeal is seen to be preferred on 23.1.2007. In fact there is a prayer for condonation of delay in submitting the appeal.

4. An appeal under Rule 4 sub rule (3) is maintainable only if it is filed within 30 days from the date of receipt of the order by any person aggrieved. There is no provision for condonation of delay as such. But if the appeal is preferred within 30 days from the date of receipt of the order by a person who is aggrieved, the appeal would be maintainable.

In such circumstances, there will be a direction to the third respondent to consider and take a decision on Ext.P2 in accordance with law. It is open to the third respondent to consider whether the appeal has been preferred by an aggrieved person within the time contemplated in sub rule (3) of Rule 4 of Chapter 13 of KER. If it is found that the appeal is preferred in time, the third respondent will proceed to consider the matter on merits and take a decision in accordance with law. Before a decision is taken in the matter, the petitioner, the fourth respondent and also any other affected party shall be afforded an opportunity of being heard. A decision as aforesaid shall be taken within a period of two months from the date of receipt of a copy of this judgment.

I find that the petitioner has sought for stay of approval of the appointment of a teacher posted on 15.1.2007. In the facts of this case, there will be a further direction to the third respondent to pass appropriate orders in this regard with notice to the petitioner and the fourth respondent within a period of 15 days from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.